

CITY BOARD OF ZONING APPEAL #2377

DATE: November 4, 2004

DATE SCHEDULED FOR PUBLIC HEARING: November 19, 2004

LOCATION: Generally located north of Manchester Drive and east of Capitol Beach Boulevard.

ADDRESS: 1144/1140 Manchester Drive

LEGAL DESCRIPTION: See attached.

APPLICANT: Greg Osborn
1144 Manchester Drive
Lincoln, NE 68528
(402)432-8121

LOT AREA: 7,625 square feet, more or less.

ZONING: R-2, Residential.

EXISTING LAND USE: Residential.

SURROUNDING LAND USE AND ZONING:

North:	Lake	R-2
South:	Single family	R-2, R-4
East:	Single family	R-2
West:	Single family	R-2, R-4

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE.

Section 27.71.080, L.M.C. allows fences to be erected to a height not to exceed seventy-six inches. A variance from seventy-six inches to eighty-seven inches is requested.

STAFF FINDINGS:

1. This is a request to install a 7'3" retaining wall fence.
2. The applicant indicated that their property elevation was raised out of the floodplain. Due to the creation of an artificial elevation, the fence height is determined from the previous ground elevation. The letter from the applicant indicates the hardship was self created by filling the property to a new elevation in order to eliminate flood insurance and meet building codes.

3. The property is higher than typical because it has been raised out of the floodplain recently by the owner.
4. The Building and Safety Department indicated that the artificial elevation "classification" would be eliminated if the fence were not on the property line. Terry Kathe of Building and Safety Department stated that the fence could be moved in five feet from the adjacent property line and meet all height restrictions.
5. The Zoning Ordinance indicates that "the height of a fence shall be determined by a measurement from the ground beneath the fence. Swales and other earth depressions up to six feet wide shall not be used when measuring the fence's height. Man-made earth berms, terraces, and retaining walls that elevate the fence shall be considered a part of the fence". (Section 27.71.080)
6. The Board of Zoning Appeals is empowered to grant variances "to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned."
7. If this appeal were not granted, the owners may move the fence five feet in from the property line and Building and Safety would be able to consider the raised elevation as the ground elevation, for purposes of fence height.

Prepared by

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Planner



Board of Zoning Appeals #2377 1144 Manchester Drive

2002 aerial

Zoning:

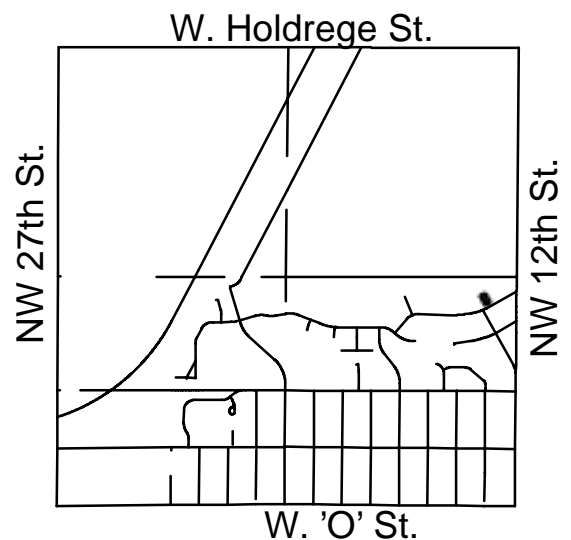
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 21 T10N R6E



Zoning Jurisdiction Lines

City Limit Jurisdiction



Lincoln City - Lancaster County Planning Dept.